

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William MacLure	Team: Squad #16	CCRB Case #: 201604227	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/13/2016 9:15 PM, Saturday, 05/14/2016	Location of Incident: 106th Precinct stationhouse	Precinct: 106	18 Mo. SOL 11/13/2017	EO SOL 11/13/2017	
Date/Time CV Reported Sat, 05/14/2016 1:48 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Sat, 05/14/2016 1:48 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Edward Celona	14314	946845	106 PCT
2. SGT Brian Latva	05398	938823	106 PCT
3. POM Abraham Islam	21734	959705	106 PCT
4. POF Erica Orlowski	18242	952072	106 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Edward Celona	Force: Police Officer Edward Celona used physical force against § 87(2)(b)	
B.POM Edward Celona	Force: Police Officer Edward Celona used physical force against § 87(2)(b)	
C.POF Erica Orlowski	Force: Police Officer Erica Orlowski used physical force against § 87(2)(b)	
D.POM Abraham Islam	Force: Police Officer Abraham Islam used physical force against § 87(2)(b)	
E.POM Edward Celona	Force: Police Officer Edward Celona restricted § 87(2)(b)'s breathing.	
F.SGT Brian Latva	Force: Sergeant Brian Latva used a taser against Niemya § 87(2)(b)	
G.SGT Brian Latva	Force: Sergeant Brian Latva used a taser against § 87(2)(b)	
H.SGT Brian Latva	Force: Sergeant Brian Latva used a taser against § 87(2)(b)	

### Case Summary

On May 14, 2016, Sgt. Matthew Jozwicki from the 106<sup>th</sup> Precinct called the CCRB to report this complaint on behalf of § 87(2)(b). On May 14, 2016, Lt. Thomas Ruggiero reported this incident to IAB under original log #16-17139. On May 17, 2016, IAB referred this case to the CCRB.

On May 13, 2016, at approximately 9:15 p.m., PO Edward Celona walked § 87(2)(b) and § 87(2)(b) into the 106<sup>th</sup> Precinct stationhouse after arresting them for § 87(2)(b). PO Celona pushed § 87(2)(b) on the steps outside the stationhouse (**Allegations A**).

On May 14, 2016, at approximately 4:00 a.m., PO Celona was attempting to fingerprint § 87(2)(b). § 87(2)(b) pulled her hand away. PO Celona brought § 87(2)(b) to the ground (**Allegation B**). PO Orlowski restrained § 87(2)(b)'s leg by stepping on her ankle (**Allegation C**). PO Islam restrained § 87(2)(b)'s other leg (**Allegation D**). PO Celona pushed his knee against § 87(2)(b)'s chest, restricting her breathing (**Allegation E**). Sgt. Latva used three cycles of the taser against § 87(2)(b) (**Allegations F through H**). § 87(2)(b) was transported to § 87(2)(b).

There was no video footage of this incident.

On August 10, 2016, this case was reassigned from Inv. Leanne Fornelli following her departure from the agency.

The age of this case exceeded 90 days because GO15 recordings for PO Celona, PO Orlowski, PO Islam, and Sgt. Latva were not received by DAO until September 6, 2016, over 10 weeks after the original request was sent to IAB, and six weeks after the request was sent to DAO. These recordings had to be received before the officers could be scheduled.

§ 87(2)(g)

### Mediation, Civil and Criminal Histories

- This case was not eligible for mediation because § 87(2)(b) and § 87(2)(b) were arrested.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED].
- A FOIL request was submitted to the NYC Comptroller's office and as of October 11, 2016 § 87(2)(b) had not filed a notice of claim in regards to this incident (Board Review 19).

### Civilian and Officer CCRB Histories

- This was § 87(2)(b)'s first complaint filed with the CCRB (Board Review 02).
- This was the first CCRB complaint filed against PO Celona over his eight year tenure with the NYPD.
- This was the first CCRB complaint filed against PO Orlowski over her four year tenure with the NYPD.
- This was the first CCRB complaint filed against PO Islam over his one year tenure with the NYPD.
- Sgt. Latva had three previous allegations stemming from three cases with no substantiated allegations over the course of his 11 year tenure with the NYPD.

### Potential Issues

- Civilian witnesses were identified by § 87(2)(b) and the UF-49 (Board Review 18) that was prepared in regards to this incident. Contact attempts to these civilian witnesses were exhausted and only § 87(2)(b) provided testimony.

### Findings and Recommendations

#### Explanation of Subject Officer Identification

- **Allegation A:** PO Celona denied having contact with § 87(2)(b) and § 87(2)(b) from when they were put in the prisoner van at the location of their arrest, until they were in the arrest processing room. However, both § 87(2)(b) and § 87(2)(b) allege that the officer who pushed § 87(2)(b) was the same officer who fingerprinted them. It is undisputed that PO Celona fingerprinted § 87(2)(b) and § 87(2)(b) § 87(2)(g) § 87(2)(g).

#### Allegations Not Pleaded

- **Force – Physical Force:** § 87(2)(b) alleged that PO Celona also pushed § 87(2)(b). However, § 87(2)(b) said that PO Celona's actions were accidental and secondary to the force used against § 87(2)(b) § 87(2)(g).
- **Abuse of Authority – Threat of Force:** § 87(2)(b) alleged that PO Celona threatened to "body" her, which she described as being taken to the ground, before he took this action. § 87(2)(g) § 87(2)(g).
- **Abuse of Authority – Threat of Force:** § 87(2)(b) alleged that Sgt. Latva threatened to use a taser against her. It is undisputed that Sgt. Latva ultimately used a taser against § 87(2)(b) (Allegations F through H). § 87(2)(g) § 87(2)(g).

#### Allegation A – Force: Police Officer Edward Celona used physical force against § 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on June 17, 2016 (Board Review 03). § 87(2)(b) and § 87(2)(b) were transported to the 106<sup>th</sup> Precinct stationhouse in a van. PO Celona was also in the van that transported them back to the stationhouse. After exiting the van, PO Celona walked § 87(2)(b) and § 87(2)(b) into the stationhouse. PO Celona held onto § 87(2)(b)'s and § 87(2)(b)'s handcuffs, guiding them to the entrance of the stationhouse. PO Celona pushed § 87(2)(b) by her handcuffs up the steps in front of the stationhouse. § 87(2)(b) pulled away from PO Celona slightly. PO Celona allegedly pushed § 87(2)(b)'s face forward into the concrete wall outside the stationhouse, causing her to sustain a scratch to her chin. In response, § 87(2)(b) kicked PO Celona, but did not remember where on his body. § 87(2)(b) was interviewed by Patrol Borough Queens South (PBQS) on May 14, 2016 (Board Review 04-05). § 87(2)(b) only said PO Celona pushed her against the wall and did not make claims of injury.

§ 87(2)(b) was interviewed at the CCRB on June 13, 2016 (Board Review 06). § 87(2)(b) also said that PO Celona pushed her and § 87(2)(b) up the stairs in front of the

stationhouse, and that § 87(2)(b) tripped up the stairs. PO Celona reacted by swinging § 87(2)(b) into a wall. § 87(2)(b) thought that PO Celona believed § 87(2)(b) was trying to escape.

As discussed above in the potential issues, no additional witnesses provided a statement regarding this incident.

Medical records received from § 87(2)(b) (Board Review 20-22) noted that § 87(2)(b) had a hematoma to her right chin area with no bleeding noted. The records did not note if § 87(2)(b) stated how she sustained this injury.

PO Celona was interviewed at the CCRB on September 22, 2016 (Board Review 07). On May 13, 2016, PO Celona was assigned to lieutenant operator. PO Celona transported the victim of the § 87(2)(b) for which § 87(2)(b) and § 87(2)(b) were arrested for, back to the stationhouse in the car with Lt. Goldsborough. § 87(2)(b) and § 87(2)(b) were transported back to the stationhouse in a van. PO Celona did not push § 87(2)(b) or § 87(2)(b) outside the 106<sup>th</sup> Precinct Stationhouse. PO Celona stated that he did not have contact with § 87(2)(b) or § 87(2)(b) outside of the stationhouse. The first time that PO Celona saw § 87(2)(b) and § 87(2)(b) after they were placed in handcuffs, was in the arrest processing room.

The 106<sup>th</sup> Precinct roll call for tour three on May 13, 2016 (Board Review 08) noted that PO Celona was assigned to Lieutenant Operator and Lt. Goldsborough was assigned to platoon commander, § 87(2)(g).

§ 87(2)(g)  
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**Allegation B – Force: Police Officer Edward Celona used physical force against § 87(2)(b)**

**Allegation C – Force: Police Officer Erica Orlowski used physical force against § 87(2)(b)**

**Allegation D – Force: Police Officer Abraham Islam used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) was not complaint with PO Celona's attempts to fingerprint her. It is undisputed that § 87(2)(b) was not wearing handcuffs when she was being fingerprinted. § 87(2)(g)

During her interview at the CCRB, § 87(2)(b) (Board Review 03) stated that PO Celona placed leg shackles on her shortly after she arrived at the stationhouse and she was wearing them when PO Celona was fingerprinting her. She also stated that her wrists were sore from wearing the handcuffs when PO Celona began to fingerprint her. Before being fingerprinted, § 87(2)(b)'s handcuffs were taken off. PO Celona squeezed § 87(2)(b)'s wrists as he fingerprinted her. § 87(2)(b) began to pull her hand back and told PO Celona that it hurt and that he was squeezing tightly on her wrists. PO Celona said he did not care. PO Celona continued to pull on § 87(2)(b)'s wrists. Initially § 87(2)(b) said she continued to pull back, but then said she could not pull back and only lifted her fingers to facilitate circulation. PO Celona told § 87(2)(b) to relax. PO Celona came behind § 87(2)(b) and wrapped both arms around her arms and torso so

that each of his hands was on § 87(2)(b)'s shoulders. PO Celona threatened to “body” § 87(2)(b) Downy if she moved or pulled back her hand again. Then, PO Celona proceeded to “body” § 87(2)(b) by pulling her onto her left side, causing her to slam on the floor. § 87(2)(b) made no movements directly before this occurred. Once on the floor, § 87(2)(b) immediately tried to get up and PO Celona placed both of his hands on her hands. PO Celona pushed her hands so that they were on either side of her head. PO Celona and § 87(2)(b) were facing each other on the ground. Sgt. Latva and PO Orlowski entered the room. § 87(2)(b) tried to get up because she was uncomfortable and not because she was trying to be aggressive. § 87(2)(b) did not do anything other than try to get up. § 87(2)(b) made no movement to slap, punch kick or otherwise injure PO Celona. When § 87(2)(b) went to move her leg, she felt pressure on the leg shackle on her left ankle. § 87(2)(b) saw PO Orlowski stepping on her ankle. § 87(2)(b) did not move her leg because she was unable to do so.

During her interview with PBQS, § 87(2)(b) (Board Review 04-05) said that during the fingerprinting process she pulled her hand back and asked PO Celona if he could ease up. PO Celona said no and kept pushing and bending her fingers. § 87(2)(b) had to be fingerprinted three times because the first two times were not correct. § 87(2)(b) told PO Celona “fuck you” because she felt that he was being disrespectful. At one point § 87(2)(b) put her fingers into a ball and because she was tired of the pain that PO Celona was putting on her wrists. PO Celona tried to take § 87(2)(b)'s fingers out of a ball. § 87(2)(b) said she was not going to cooperate because PO Celona was already hurting her. PO Celona told § 87(2)(b) if she pulled back again, she would see what would happen. PO Celona came behind § 87(2)(b) grabbed her, and said that her face could be on the ground in two and a half seconds. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

During her CCRB interview, § 87(2)(b) (Board Review 06) also stated that § 87(2)(b) was in leg shackles at the time that she was being fingerprinted. During her CCRB interview, § 87(2)(b) said that no officer took § 87(2)(b) to the floor. However, during her interview with PBQS (Board Review 09-10) § 87(2)(b) said that PO Celona pulled § 87(2)(b) to the ground so that she was on her back and PO Orlowski stepped on § 87(2)(b)'s feet.

PO Celona (Board Review 07) denied that § 87(2)(b) was wearing leg shackles at the time she was being fingerprinted. PO Celona took off § 87(2)(b)'s handcuffs and fingerprinted one hand without incident. When PO Celona started to fingerprint § 87(2)(b)'s second hand, she started yelling and becoming belligerent. PO Celona decided to take a break and let § 87(2)(b) sit on a bench to calm down. PO Celona tried to fingerprint § 87(2)(b) again, but then she became uncooperative and was pulling her hand away, so they took a second break. When PO Celona tried to fingerprint § 87(2)(b)'s second hand for the third time, § 87(2)(b) said she did not want to be fingerprinted anymore because it hurt. § 87(2)(b) began to flail her arms and wave her hands back and forth. PO Celona thought that § 87(2)(b) was going to hit him. PO Celona grabbed § 87(2)(b)'s hands and pulled her down to the ground. § 87(2)(b) was on the ground on her back. § 87(2)(b) tried to pull her arms inward and pushed up towards PO Celona. PO Celona pushed § 87(2)(b)'s hands outward and was lying in a “superman” position on top of her. § 87(2)(b) tried to bit PO Celona's face and arms and face while also kicking her legs. § 87(2)(b) kicked PO Celona's legs and groin. PO Islam, who had been doing paperwork in the arrest processing room, came over and restrained § 87(2)(b)'s legs. PO Celona did not see how PO Islam did this because PO Islam was behind him. PO Celona did not know that PO Orlowski was in the room until after the incident.

PO Orlowski was interviewed at the CCRB on September 27, 2016 (Board Review 11). PO Orlowski was working as the telephone switchboard (T/S) operator at the 106<sup>th</sup> Precinct stationhouse at the time of the incident. PO Orlowski heard § 87(2)(b) screaming and arguing with PO Celona in the cell area. PO Orlowski could see into the cell area through a window between the cell area and the room where the desk and T/S operator are stationed. Through the window, PO Orlowski saw that § 87(2)(b) was not handcuffed and PO Celona was attempting to fingerprint her. § 87(2)(b) was flailing her arms by moving her hands by her shoulder, head, and body, and out towards PO Celona. § 87(2)(b) did not appear to be attempting to strike PO Celona. PO Orlowski went into the cell area and saw § 87(2)(b) was trying to push away from PO Celona and was flailing her arms and kicking her legs. § 87(2)(b)'s kicks did not make contact with PO Celona, though they were in his direction. § 87(2)(b) was not restrained in any way at this time. § 87(2)(b) fell onto the ground and landed on her stomach with her hands underneath her body. PO Orlowski did not see what caused § 87(2)(b) to fall. While on the ground, § 87(2)(b) hit and kicked at officers. PO Celona, who was positioned by § 87(2)(b)'s shoulders and arms, grabbed § 87(2)(b)'s arms to get them from underneath her body. PO Orlowski grabbed § 87(2)(b)'s right leg and held it so that she could not kick officers. PO Orlowski did not do anything else to restrain § 87(2)(b)'s leg and did not step on her ankle. PO Islam held § 87(2)(b)'s left leg.

PO Abraham Islam was interviewed at the CCRB on September 30, 2016 (Board Review 12). PO Islam also denied that § 87(2)(b) was wearing leg shackles at the time that she was being fingerprinted. PO Islam was completing arrest paperwork in the arrest processing room while PO Celona was attempting to fingerprint § 87(2)(b). The fingerprinting machine where PO Celona and § 87(2)(b) were was behind where PO Islam was sitting. PO Islam heard “some scuffling” behind him and heard PO Celona tell § 87(2)(b) to “calm down.” PO Islam turned around and saw PO Celona holding § 87(2)(b) in a “bear hug,” standing behind her with his arms wrapped around her arms. PO Celona told § 87(2)(b) to calm down and explained that he just wanted to fingerprint her. § 87(2)(b) tried to wriggle out of PO Celona’s grasp. After a minute or two, § 87(2)(b) agreed to allow PO Celona to fingerprint her. PO Islam turned back to continue doing his paperwork. However, there continued to be a problem with § 87(2)(b). PO Islam turned back around and saw PO Celona try to place § 87(2)(b) on the bench next to the fingerprint machine. § 87(2)(b) and PO Celona fell to the ground during the struggle. PO Islam corroborated PO Celona’s and PO Orlowski’s testimonies that § 87(2)(b) was kicking at the officers. PO Islam also said that he and PO Orlowski held down § 87(2)(b)'s legs with their hands because she was kicking. PO Islam did not restrain § 87(2)(b)'s leg in any way aside from holding it down. PO Islam did not recall that PO Orlowski stepped on § 87(2)(b)'s ankle, and denied that he performed this action.

Sgt. Latva was interviewed at the CCRB on September 20, 2016 (Board Review 03). Sgt. Latva stated that § 87(2)(b) was in leg shackles at the time of this incident, § 87(2)(g). § 87(2)(b). Sgt. Latva was working as the desk sergeant in the 106<sup>th</sup> Precinct stationhouse. Sgt. Latva observed through the window to the cell area that PO Celona was attempting to restrain § 87(2)(b) against the chairs. When Sgt. Latva entered the room PO Celona was grabbing § 87(2)(b)'s arms and holding her to the ground. § 87(2)(b) was kicking her legs. PO Orlowski restrained § 87(2)(b)'s legs, but Sgt. Latva did not see how she did this.

Officers must use the minimum necessary force to overcome resistance Patrol Guide 203-11: Use of Force (Board Review 14). The applicable procedure regarding the use of force has since changed, but at the time of this incident, Patrol Guide 203-11 was in effect.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation E – Force: Police Officer Edward Celona restricted § 87(2)(b) s breathing.**

§ 87(2)(g)

§ 87(2)(b) stated during her CCRB interview (Board Review 03) and her interview with PBQS (Board Review 04-05) that PO Celona knelt her in the chest twice while she was restrained on the ground. In her CCRB interview § 87(2)(b) said that this restricted her breathing and she told PO Celona that she was unable to breathe. § 87(2)(b) did not specify how long her breathing was restricted. According to medical records received from § 87(2)(b) (Board Review 20-22), § 87(2)(b) complained of rib and chest pain both in the ambulance and upon arrival at the hospital. The records did not note if § 87(2)(b) complained that her breathing was restricted.

§ 87(2)(b) stated during her interview with PBQS (Board Review 09-10) that PO Celona placed his knees on § 87(2)(b) s chest while she was on the ground. However, during her CCRB statement, she did not state this.

§ 87(2)(b) was interviewed by PBQS on May 14, 2016 (Board Review 15-16). § 87(2)(b) stated that PO Celona put his knee on § 87(2)(b) s stomach and pushed down.

PO Celona (Board Review 07) stated that he did not use any additional force against § 87(2)(b) other than restraining her to the ground. PO Celona denied putting his knee against § 87(2)(b) s chest. PO Celona denied doing anything to restrict § 87(2)(b) s breathing and said that § 87(2)(b) never complaint that she was unable to breathe.

Sgt. Latva (Board Review 13), PO Orlowski (Board Review 11), and PO Islam (Board Review 12) all denied that PO Celona put his knee against § 87(2)(b) s chest and said he did not

do anything to restrict her breathing. All officers testified that § 87(2)(b) never complained that she was unable to breathe.

Officers must use the minimum necessary force to overcome resistance. Officers will not use chokeholds. A chokehold shall include, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air Patrol Guide 203-11 Use of Force (Board Review 14).

§ 87(2)(g)

#### **Allegation F – Force: Sergeant Brian Latva used a taser against § 87(2)(b)**

§ 87(2)(g)

It is undisputed that Sgt. Latva used a taser against § 87(2)(b) inside the 106<sup>th</sup> Precinct stationhouse. At the time of this incident, § 87(2)(b) was § 87(2)(b) old, stood five feet and three inches tall, and weighed 91 pounds. At the time of this incident, Sgt. Latva was § 87(2)(b) old, stood six feet and two inches tall, and weighed 290 pounds.

§ 87(2)(b) (Board Review 03) stated that after PO Celona kned her a second time, she could not move. Sgt. Latva waited for the officers to get out of the way and then used the taser against her. PO Celona released § 87(2)(b) but was holding her arms down at this time. The two prongs struck § 87(2)(b) on her left side, but only one made contact with her body, leaving a mark, because the other prong hit the thicker part of her sweater. During her interview with PBQS (Board Review 04-05), § 87(2)(b) stated that she could not stay calm with all of the officers on her. Additionally she said that PO Celona was on top of her when Sgt. Latva shot the taser.

During her interview at the CCRB, § 87(2)(b) (Board Review 06) stated that § 87(2)(b) was tasered before officers restrained her on the ground. PO Celona told § 87(2)(b) that if she moved away again, he would taser her. Sgt. Latva left the room and reentered with the taser. Sgt. Latva tasered § 87(2)(b) striking the left side of her ribcage, 30 seconds after PO Celona told her that she would be tasered if she moved again. Before being tasered, § 87(2)(b) did nothing other with her body than pull her hand away.

During his interview with PBQS, § 87(2)(b) (Board Review 15-16) stated that § 87(2)(b) was standing in the corner when she was tasered.

According to the UF-49 prepared in regards to this incident (Board Review 18), § 87(2)(b) was informally interviewed by Capt. John Ganley. § 87(2)(b) stated that § 87(2)(b) was being restrained by PO Celona and PO Orlowski on the ground when Sgt. Latva used the taser against her.

Sgt. Latva (Board Review 13) told § 87(2)(b) while she was being restrained on the ground that he would have to taser her if she continued to be irate and combative. Initially, § 87(2)(b) calmed down. Sgt. Latva told the officers to back up because § 87(2)(b) seemed like she was now willing to comply. § 87(2)(b) got up off the ground on her own. § 87(2)(b) still had to be fingerprinted so Sgt. Latva had PO Celona attempt to fingerprint her again. Almost immediately after PO Celona tried to fingerprint § 87(2)(b) again, § 87(2)(b) became



noncompliant. § 87(2)(b) clenched her fist to make it difficult for PO Celona to get each finger. PO Celona tried to get § 87(2)(b)'s finger out. § 87(2)(b) pulled back her arm with a clenched fist. § 87(2)(b) got into a fighting stance, with her right leg to her side and her fists clenched at around chest level. § 87(2)(b) was flailing her arms in every direction and started to walk towards the officers. Sgt. Latva told the officers to stand back and used the taser against § 87(2)(b).

PO Celona (Board Review 07) stated that while he was on the ground restraining § 87(2)(b) he heard Sgt. Latva tell him to get up. PO Celona got up. § 87(2)(b) immediately hopped up and stood in a crouched position with her hands in fists. Sgt. Latva tasered § 87(2)(b).

PO Orlowski (Board Review 11) stated that after § 87(2)(b) was on the ground, the officers were able to bring her back to the fingerprinting machine. Sgt. Latva told § 87(2)(b) that they simply wanted to fingerprint her so that she could be taken to see a judge. Sgt. Latva told § 87(2)(b) to let the officers fingerprint her or he would tase her. While PO Orlowski initially stated that § 87(2)(b) continued to kick and scream, she later stated that § 87(2)(b) was against the wall with her hands behind her back. Sgt. Latva discharged the taser.

PO Islam (Board Review 12) also stated that Sgt. Latva told § 87(2)(b) to calm down or he would have to tase her. Sgt. Latva told the officers to get off § 87(2)(b). Sgt. Latva spoke with § 87(2)(b) for about two minutes and explained that they wanted to fingerprint her so that she could leave the stationhouse as quickly as possible. § 87(2)(b) initially agreed to be fingerprinted. PO Islam could not remember if Sgt. Latva left the room at this point. Then another scuffle occurred. PO Celona was holding § 87(2)(b) by her arms and telling her to calm down. PO Islam stated, "She started pushing off of him and throwing her arm." Sgt. Latva re-entered the room and told PO Celona to back away. PO Islam did not recall what § 87(2)(b) was doing when PO Celona backed away aside from the fact that she was standing against a wall. Sgt. Latva tasered § 87(2)(b).

The UF-49 prepared by Capt. Ganley in regards to this incident (Board Review 18) also noted that § 87(2)(b) had been placed in leg shackles upon arrival at the stationhouse and was in leg shackles at the time she was tasered.

The Less Lethal Equipment Use Report prepared in regards to this incident (Board Review 23), noted in the details that § 87(2)(b) became irate, clenched her fist, raised her arm in a threatening manner, and then resisted being handcuffed. The investigating supervisor's report completed by Capt. Ganley noted that, given the size disparity of § 87(2)(b) and Sgt. Latva, and the fact that she was leg shackled at the time, the circumstances could have warranted other means of restraint.

A Conducted Energy Device (CED) should only be used against persons who are actively physically resisting, exhibiting active physical aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present. Officers must consider the totality of the circumstances when deciding the minimum amount of force necessary to overcome resistance. Factors to consider include when determining the appropriate use of force include, but are not limited to: officer/subject size disparity, officer /subject strength disparity, officer/subject age disparity, officer's location is a hostile environment, Patrol Guide 212-117 Use of Conducted Energy Devices (CED) (Board Review 17).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

d.

**Allegation G – Force: Sergeant Brian Latva used a taser against** § 87(2)(b)

§ 87(2)(g)

As noted above, it is undisputed that § 87(2)(b) was tasered inside the 106<sup>th</sup> Precinct stationhouse. Also as noted above, § 87(2)(b) was § 87(2)(b) old, stood five feet and three inches tall, and weighed 91 pounds. Sgt. Latva was § 87(2)(b) old, stood six feet and two inches tall, and weighed 290 pounds.

§ 87(2)(b) (Board Review 03) stated that she was only tased once before she ripped out the prongs of the taser. However, during her interview with PBQS (Board Review 04-05), she stated that Sgt. Latva kept pressing the trigger on the taser.

§ 87(2)(b) (Board Review 06) said that the tasing caused § 87(2)(b) to slowly sit so that she landed on her buttocks. § 87(2)(b) also believed that § 87(2)(b) was only tasered once.

Sgt. Latva (Board Review 13) stated that after the prongs hit § 87(2)(b) she looked stunned that it happened, but continued to walk towards the officers with her fists clenched. § 87(2)(b) was about five to ten feet away from PO Celona. The first cycle of the taser lasted about five seconds. Immediately after the first cycle ended, Sgt. Latva pulled the trigger of the taser again to use a second cycle against § 87(2)(b) because the first cycle seemed to have no effect on her.

PO Celona (Board Review 07) believed that Sgt. Latva used only one cycle of the taser against § 87(2)(b). At one point he stated that § 87(2)(b) was laughing and that the taser did not seem to have any effect on her, but he also stated that § 87(2)(b) fell to the ground as a result of the taser being used. PO Celona helped up § 87(2)(b) and handcuffed her.

PO Orlowski (Board Review 11) said that after she was tasered, § 87(2)(b) crouched or slouched down in an area between the cells and the wall. PO Orlowski was not sure how many cycles of the taser were used.

PO Islam (Board Review 12) said that as a result of the taser, § 87(2)(b) slumped or crouched to the ground. The taser prongs were caught in her sweater by her abdomen. Neither of the prongs actually went into her skin. PO Islam did not know how a taser works and had never used one, so he could not say how many times the taser was discharged. Within 10 seconds of being hit with the taser, § 87(2)(b) ripped off the taser prongs. § 87(2)(b) rose to her feet, but appeared to be in shock, and was not yelling anymore.

The UF-49 prepared in regards to this incident (Board Review 18) noted that Sgt. Latva tasered § 87(2)(b) three times. In the summary of Sgt. Latva's interview on the UF-49, it noted that the first impact of the taser did not appear to have any effect on § 87(2)(b).

As noted above, a Conducted Energy Device (CED) should only be used against persons who are actively physically resisting, exhibiting active physical aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present. Officers must consider the totality of the circumstances when deciding the minimum amount of force necessary to overcome resistance. Factors to consider include when determining the appropriate use of force include, but are not limited to: officer/subject size disparity, officer /subject strength disparity, officer/subject age disparity, officer's location is a hostile environment, Patrol Guide 212-117 Use of Conducted Energy Devices (CED) (Board Review 17).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

#### **Allegation H – Force: Sergeant Brian Latva used a taser against § 87(2)(b)**

§ 87(2)(g)

It is undisputed that § 87(2)(b) attempted to pull remove the taser prongs they were deployed.

As discussed above, § 87(2)(b) (Board Review 03) said that she removed the taser prongs while she was on the ground after being tasered. § 87(2)(b) only mentioned during her interview with PBQS (Board Review 04-05) that Sgt. Latva pressed the trigger on the taser multiple times. § 87(2)(b) did not specify how many times Sgt. Latva pressed the trigger of the taser.

Sgt. Latva (Board Review 13) stated that the second taser cycle also lasted five seconds. After the second cycle ended, § 87(2)(b) motioned to remove the prongs with her hand. Sgt. Latva pulled the trigger of the taser again, using a third cycle of the taser against § 87(2)(b). Sgt. Latva used the third cycle in the hope that there was enough time while she was stunned for the officers to get her into handcuffs. Sgt. Latva did not know if § 87(2)(b) was going to be compliant at this point. The third cycle of the taser also lasted five seconds. Sgt. Latva did not know how much of the third cycle affected § 87(2)(b) because she ultimately removed the prongs. Sgt. Latva was not sure if the prongs were removed before the third cycle was activated. After the third cycle § 87(2)(b) seemed stunned and was compliant. Sgt. Latva did not specify whether or not § 87(2)(b) was standing or on the ground when he used the third cycle of the taser against her.

PO Celona (Board Review 07) stated that § 87(2)(b) fell to the ground after Sgt. Latva used the taser against her. PO Celona did not mention that § 87(2)(b) pulled out the taser prongs after being tasered.

PO Orlowski (Board Review 11) and PO Islam (Board Review 12) both stated that § 87(2)(b) pulled out the taser prongs after she was on the ground from being tasered.

As noted above, a Conducted Energy Device (CED) should only be used against persons who are actively physically resisting, exhibiting active physical aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present. Officers must consider the totality of the circumstances when deciding the minimum amount of force necessary to overcome resistance. Factors to consider include when determining the appropriate use of force include, but are not limited to: officer/subject size disparity, officer /subject strength disparity, officer/subject age disparity, officer's location is a hostile environment, Patrol Guide 212-117 Use of Conducted Energy Devices (CED) (Board Review 17).

Sgt. Latva stated that only the second cycle seemed to have an effect on § 87(2)(b) and all other officers stated that the taser made § 87(2)(b) fall to the ground. Additionally, PO Orlowski and PO Islam both stated that § 87(2)(b) was on the ground when she removed the taser prongs. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

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Squad:

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date